

EXHIBIT 1



Schools & Libraries Division

Notification of Improperly Disbursed Funds Recovery Letter
Funding Year 2007: July 1, 2007 - June 30, 2008

January 5, 2011

Thomas J. Bourque
LYNN SCHOOL DISTRICT
90 COMMERCIAL ST
LYNN, MA 01905

Re: Form 471 Application Number: 582501
Funding Year: 2007
Applicant's Form Identifier: Internal 2007
Billed Entity Number: 120415
FCC Registration Number: 0013033295
SPIN: 143011377
SPIN Name: CBE Technologies, Inc.
Service Provider Contact Person: Jennifer Brickhill

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were disbursed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now recover these improper disbursements. The purpose of this letter is to inform you of the recoveries as required by Program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the Program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error.

This is NOT a bill. The next step in the recovery of improperly disbursed funds process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Notification of Improperly Disbursed Funds decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Improperly Disbursed Funds Recovery Letter and the funding request numbers you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Funding Disbursement Recovery Report included with this letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 S. Jefferson Rd.
P. O. Box 902
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

FUNDING DISBURSEMENT RECOVERY REPORT

On the pages following this letter, we have provided a Funding Disbursement Recovery Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which recovery is necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the service provider for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action. The Report explains the exact amount the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Jennifer Brickhill
CBE Technologies, Inc.

Funding Disbursement Recovery Report
for Form 471 Application Number: 582501

Funding Request Number: 1614427
Services Ordered: INTERNAL CONNECTIONS
SPIN: 143011377
Service Provider Name: CBE Technologies, Inc.
Contract Number: ITC16
Billing Account Number:
Site Identifier: 120415
Funding Commitment: \$97,318.28
Funds Disbursed to Date: \$88,554.76
Funds to be Recovered from Applicant: \$6,140.00

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of an audit it was determined that the equipment for which you requested discounts in your funding request has not been utilized in accordance with program rules. FCC rules require that applicants have secured all the necessary resources to make effective use of the equipment and that the equipment is utilized for an educational purpose. Requested documentation to validate that the Catalyst Cisco 3560g 48 port switch part #C3560G-48PS-S (\$6,172.00 pre-discount cost) and APC Smart UPS part #SUA1500RMU (\$650.00 pre-discount cost) was being utilized was not provided by the beneficiary. Since a review has revealed that equipment has not been utilized according to program rules, USAC must seek recovery of all funds improperly disbursed that are associated with the equipment not being utilized. Accordingly, USAC is seeking recovery of \$6,140.00. (\$6,822.00 * 90% discount) (specific amount of the equipment not utilized) which was improperly disbursed.

Funding Request Number: 1614789
Services Ordered: INTERNAL CONNECTIONS
SPIN: 143011377
Service Provider Name: CBE Technologies, Inc.
Contract Number: ITC16
Billing Account Number:
Site Identifier: 120415
Funding Commitment: \$175,192.27
Funds Disbursed to Date: \$175,192.05
Funds to be Recovered from Applicant: \$5,555.00

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of an audit it was determined that the equipment for which you requested discounts in your funding request has not been utilized in accordance with program rules. FCC rules require that applicants have secured all the necessary resources to make effective use of the equipment and that the equipment is utilized for an educational purpose. The requested documentation to validate that the Catalyst Cisco 3560G 48 port switch, part #WS-C3560G-48PS-S, was being utilized was not provided by the beneficiary. Since a review has revealed that equipment has not been utilized according to program rules, USAC must seek recovery of all funds improperly disbursed that are associated with the equipment not being utilized. Accordingly, USAC is seeking recovery of \$5,555.00. (specific amount of the equipment not utilized) which was improperly disbursed.

EXHIBIT 2

EF-304.4

Condition:

The Beneficiary did not install products funded by the Schools & Libraries program more than one year after receipt.

Internal Connections FRNs:

- In Funding Year 2007, the Beneficiary received S&L funding for FRN 1614789 to purchase a Cisco 3560G 48 Port switch for Ford Elementary School that was received on February 1, 2008 which had not been installed as of April 3, 2009.
- In Funding Year 2007, the Beneficiary received S&L funding for FRN 1614427 to purchase a Cisco 3560G 48 Port switch and a APC Smart UPS 1500 for Hood Elementary School that was received on February 1, 2008 which had not been installed as of April 3, 2009.

Internal Connections/Basic Maintenance FRNs:

- During our site visits at LVTI MW, relative to FRN# 1323754, we noted that a Cisco Catalyst 2950 switch was uninstalled and not in use.

The uninstalled items were not being utilized for educational purposes.

Issue: E-Rate Products and Services – Equipment Not Used

There was a significant delay between the installation of IP-Telephony equipment by the vendor and Wireless Network equipment by the same vendor, but after some building wiring had been done. The equipment in question was intended to be installed when the wireless equipment was finished, but because of an oversight, it was not. As soon as we discovered that the equipment was not installed, we had the vendor install and configure it, and it is all set up now. The invoice date for the equipment in question is February 28, 2008, and the invoice date for the installation is 5/27/08. We have heard that generally 1 year is considered to be a reasonable timeframe for equipment to be installed, and we feel that between May 27, 2008 and April 3, 2009 is within that period.

This occurred at both the Hood School and the Ford School.

The Catalyst 2950 at LVTI MW was not purchased from FRN 1323754, it was an existing piece of equipment that was in service at the time of the FRN 1323754 Basic Maintenance contract but has since been replaced by new equipment, but was kept in the MDF to keep our inventory of E-Rate equipment in place. The 2950 is a non-Power-Over-Ethernet switch that was replaced in August 2008 by a Catalyst 3560 POE Cisco switch (CBE Invoice S_INV5001568). I described this to the KPMG auditor during the site visits. The Basic Maintenance FRN 1323754 in question was for funding year 2005. Your site visit was in April 2009.

EXHIBIT 3

4



Schools and Libraries Division

September 29, 2010

Tom Bourque

Lynn School District

471 Application Number: 582501, 582501, 456578

FRNS: 1614789, 1614427, 1323754

Response Due Date: October 1, 2010

You were recently sent a request by the Program Compliance team to review your **Funding Year 2006-2007, 471 applications #582501, 582501, 456578, FRNS 1614789, 1614427, 1323754** to ensure that it is in compliance with the rules of the Universal Service program. This is a reminder that your response due date is approaching. We have not received a response to our initial contact with you.

The information still needed to complete the review is listed below. Answer all of the following questions and provide the requested documentation as indicated. Fax or e-mail the requested information to my attention.

Please send the requested information by the response due date **10/01/2010**.

During an audit conducted Form 471 Application #582501, 456578, you provided information that led to the COMAD referral. Based on a review of the documentation provided, we have determined that USAC may have improperly disbursed funds for FRNS 1614789, 1614427, because equipment was not utilized in accordance with program rules. **As a result, USAC may seek recovery of \$11,695.00 disbursed from the applicant.**

FCC rules require that applicants have secured all the necessary resources to make effective use of the equipment and that the equipment is utilized for an educational purpose.

In order to continue the review of FRN 1614789, 1614427, 1323754 please answer the following questions and sign the certification below:

Finding 4

FRN 1614789 - Cisco 3560g 48 port switch for Ford Elementary.

FRN 1614427- Cisco 3560g 48 port switch and APC Smart UPS 1500 for Hood Elementary.

FRN 1323754 - Cisco Catalyst 2950 (Basic Maintenance) Switch was not installed at the time of the audit.

Recovery to be Determined.

Please explain the reason for the delay in using the equipment.

2578

LYNN PUBLIC SCHOOLS

Administrative Offices – 90 Commercial Street, Lynn, MA 01905
Tel. (781) 593-1680 ~ Fax. (781) 477-7487



September 29, 2010

Lynn School District
471 Application Number:
FRN: 1614789 and 1614427
Finding 4

Ms. Humes:

FRN 1614789 and FRN 1614427 – The Ford School, Attachment 8, and Hood School, Attachment 9, were installed in two phases, the network and IP Telephony first, then the contractor installed the Wireless systems. The wireless installation was delayed because it required extensive re-wiring of the buildings. Before the wireless access points were installed, the contractor set aside the equipment listed, to be set up when the new Access Points were connected. When the wireless was finally finished, the contractor used different personnel who did not realize that equipment had been set aside, and connected the wireless equipment to switches that were already installed. They did not notice that some equipment was not installed.

As soon as we realized the error, we contacted the vendor and the equipment was put into service, and we notified the auditors that the situation had been corrected. The wireless installation was substantially completed on 5/27/08

If there are any further questions please feel free to contact this office.

Regards,

Thomas Bourque
Assistant to the Business Administrator

Attachment 8 Ford

7



CBE Technologies, Inc.
50 Foden Rd.
S. Portland, Maine 04106
United States
<http://www.cbetech.com>

Invoice	
Date May 27, 2008	Doc # PJ_OA100050024-5
Description Lynn PS YR-10 e-Rate Ford Cisco VoIP	
SalesRep Mann, Jeff (P) 207-239-3013	
Customer Contact McManus, Dan (P) (781) 593-1680 mcmanusd@lynnschools.org	

Customer
Lynn Public Schools Erate (60726)
McManus, Dan
90 Commercial St
Lynn, Massachusetts 01905

Bill To
Lynn Public Schools Erate
Payable, Accounts
90 Commercial St
Lynn, Massachusetts 01905

Ship To
Lynn Public Schools Erate
McManus, Dan
90 Commercial St
Lynn, Massachusetts 01905

Customer PO: 00003503-00	Terms: Net 30 Days	Ship Via: Best Way
Special Instructions: None		Carrier Account #: None

Item	Description	Part #	Qty	Tax	Unit Price	Total
1	Ford Project Labor Eligible \$43,944.00 Ineligible (portion associated with 2821 router install - qty 2): \$228.00 each (\$456 total)	CBE-LAB	1	No	\$44,400.00	\$44,400.00

Subtotal \$44,400.00
Eligible Amt. \$43,944.00
Ineligible Amt. \$456.00

SLD Amt Due \$39,549.60

Lynn Total Due \$4,850.40

Thank you for your order. We value your business and will continue to provide you excellent service in addition to our comprehensive product line.

Please remit payment to:
PO Box 414023
Boston, MA 02241

Notice:
No return or exchange without authorization and original invoice. Consumable, opened software and special orders are not returnable. Defectives are exchanged with the same if returned within 7 days of purchase. All returns have to be in their own original boxes and packing materials. All warranties are through their respective manufacturers.
Past due invoices will be subject to a 1.5% monthly service charge (18% Annual Percentage Rate).

4068

Attachment: 9

~~Hood~~
Hood

7

CBE technologies

CBE Technologies, Inc.
50 Foden Rd.
S. Portland, Maine 04106
United States
<http://www.cbetech.com>

Invoice

Date	Doc #
May 27, 2008	PJ_OA100050027

Description
Lynn PS YR-10 e-Rate Hood Cisco VoIP

SalesRep
Mann, Jeff (P) 207-239-3013

Customer Contact
McManus, Dan (P) (781) 593-1680 mcmansud@lynnschools.org

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Customer PO:
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Terms:
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Ship Via:
Best Way

Special Instructions:
None

Carrier Account #:
None

Item	Description	Part #	Qty	Tax	Unit Price	Total
1	Hood Project Labor Eligible \$22,172.00 Ineligible (portion associated with 2821 router install): \$228.00	CBE-LAB	1	No	\$22,200.00	\$22,200.00

Subtotal \$22,200.00

Eligible Amt. \$22,172.00

Ineligible Amt. \$228.00

SLD Amt Due \$19,774.80

Lynn Total Due \$2,425.20

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5067



Schools and Libraries Division

September 29, 2010

Tom Bourque

Lynn School District

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FRNS: 1614789, 1614427, 1323754

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FRN 1614789 - Cisco 3560g 48 port switch for Ford Elementary.

FRN 1614427- Cisco 3560g 48 port switch and APC Smart UPS 1500 for Hood Elementary.

FRN 1323754 - Cisco Catalyst 2950 (Basic Maintenance) Switch was not installed at the time of the audit.

Recovery to be Determined.

Please explain the reason for the delay in using the equipment.

LYNN PUBLIC SCHOOLS

Administrative Offices – 90 Commercial Street, Lynn, MA 01905
Tel. (781) 593-1680 ~ Fax. (781) 477-7487



September 29, 2010

Lynn School District
471 Application Number:
FRN: 1614789 and 1614427
Finding 4

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Regards,

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Thomas Bourque
Assistant to the Business Administrator



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SLD Amt Due	\$39,549.60
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Lynn Total Due	\$4,850.40
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Boston, MA 02241

Notice:

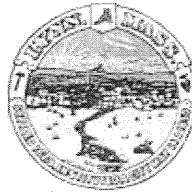
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LYNN PUBLIC SCHOOLS

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Tel. (781) 593-1680 ~ Fax. (781) 477-7487



September 29, 2010

Lynn School District
471 Application Number:
FRN: 1323754
Finding 4

Ms. Humes:

FRN1323754 is in reference to Basic Maintenance on a Cisco Switch from 3 years previous. The switch in question was installed and functioning at the time of the service delivery, but had since been replaced by an updated switch when the building was upgraded to an IP-Telephone system.

In order to keep our inventory as accurate as possible, when the Cisco 2950 switch was removed from service, we kept it in the same location until I could find another site to locate the switch at. The audit was conducted at a time beyond the FRN service delivery period. The switch had been used and maintained.

If there are any further questions please feel free to contact this office.

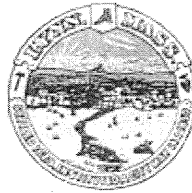
Regards,

A handwritten signature in black ink, appearing to read "Thomas Bourque", is written over a horizontal line.

Thomas Bourque
Assistant to the Business Administrator

LYNN PUBLIC SCHOOLS

Administrative Offices – 90 Commercial Street, Lynn, MA 01905
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September 29, 2010

Lynn School District
471 Application Number:
FRN: 1323754
Finding 4

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If there are any further questions please feel free to contact this office.

Regards,

A handwritten signature in black ink, appearing to read "Thomas Bourque", is written over a horizontal line.

Thomas Bourque
Assistant to the Business Administrator

- 1) Please provide the date in month/year format when the equipment was first delivered: 2/2008
 * The approvals had been delayed so equipment only came at this point.
- 2) Has the equipment been utilized? Yes X No _____

If Yes, please provide:

- a) The date(s) in month/year format when the equipment was utilized MAY 27, 2008
 b) Documentation demonstrating that the equipment was utilized (e.g. maintenance records, trouble tickets, equipment logs, etc.)
 c) If the equipment was utilized at different times, provide the type and/or quantity of equipment utilized by each date and documentation showing utilization for each (e.g. maintenance records, trouble tickets, equipment logs, etc.)

If No, do you intend to utilize the equipment? Yes _____ No _____

If Yes, please provide the date(s) in month/year format when you intend to utilize the equipment

I certify that I am authorized to make the representations set forth in the responses to the Recovery of Erroneously Disbursed Funds inquiry on behalf of (NAME OF ENTITY), the entity represented on and responding to the Recovery of Erroneously Disbursed Funds inquiry, and am the most knowledgeable person with regard to the information set forth therein. I certify that the responses and supporting documentation to the Recovery of Erroneously Disbursed Funds inquiry are true and correct to the best of my knowledge, information and belief. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I acknowledge that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

I declare under penalty of perjury that the foregoing is true and correct. Executed on 29 day of September, 2010 at LYNN [city], MA [state].

Signature <u>Thomas J. Bourne</u>		Date <u>9/29/2010</u>
Print Name <u>Thomas J. Bourne</u>	Title <u>Asst. to Bus. Admin</u>	
Employer <u>Lynn School District</u>		
Telephone Number <u>617-799-7954</u>	Fax Number <u>781-477-7487</u>	
Email Address <u>bourne.t@LynnSchools.org</u>		
Address <u>90 Commercial St.</u> <u>LYNN, MA 01905</u>		

TRANSMISSION VERIFICATION REPORT

TIME : 09/30/2010 09:18
NAME : SUPT OFFICE
FAX : 17814777487
TEL : 17815931680
SER.# : 000L5J277850

DATE, TIME
FAX NO. /NAME
DURATION
PAGE(S)
RESULT
MODE

09/30 09:16
15735996582
00:02:11
07
OK
STANDARD
ECM

LYNN PUBLIC SCHOOLS
Administrative Offices
90 Commercial Street
Lynn, Massachusetts 01905

Phone: (781) 593-1680
Fax: (781) 477-7487

Date: 9/30/10

FAX COVER SHEET

TO:

School/Company: KAREN Humes
Individual: SLD
Fax Number: 973-599-6532

FROM:

Department: Business
Individual: Tom Bourque

Voice Mail Number: (781) 268-4024
cell (617) 799-7954

MESSAGE:

KAREN: Again, thank you for your
interview.

EXHIBIT 4



Federal Communications Commission
Washington, D.C. 20554

January 16, 2009

DA 09-86

Mr. Scott Barash
Acting Chief Executive Officer
Universal Service Administrative Company
2000 L Street, N.W.
Suite 200
Washington, DC 20036

Re: Schools and Libraries Program, WC Docket No. 02-6
"Table C" recovery issues

Dear Mr. Barash:

This letter responds to the outstanding policy issues regarding recovery of funds in the schools and libraries universal service program, also known as the E-rate program, on which USAC has sought formal guidance. On March 8, 2006, USAC submitted a memorandum proposing action regarding schools and libraries commitment adjustments and funds recoveries. In that memorandum, USAC submitted lists of recovery situations in a table format: Tables A, B, and C.¹ Table C contained scenarios that were not specifically addressed in the *Schools and Libraries Fifth Report and Order*, and USAC had proposed to seek recovery for the violations listed in Table C.

Those Table C scenarios are outlined in the attached chart. The chart provides our guidance as to when recovery should occur. Generally, we agree with USAC's recommendations to process recoveries for the scenarios listed. However, in certain instances we believe that recovery might not be appropriate for particular factual situations, as explained in detail below and as noted on the chart.

Children's Internet Protection Act (CIPA) Violations: USAC recommended complete recovery in every instance in which the applicant did not comply with all CIPA requirements, which require a school or library to certify that it is enforcing a policy of Internet safety that includes measures to block or filter Internet access for minors and adults to certain visual depictions.² We note, however, that, in certain instances, although the applicant may not have been in technical compliance, there was substantial compliance with the spirit of the CIPA requirements. For example, an audit found that Little Rock School District (Little Rock) was not in compliance with the CIPA requirement to have in place an

¹ Table A contained scenarios that were specifically addressed in the *Schools and Libraries Fifth Report and Order* and in which there was a specific reference in the *Schools and Libraries Fourth Report and Order* as to the party from whom recovery should be directed. Table B contained scenarios that were specifically addressed in the *Schools and Libraries Fifth Report and Order*, but did not have a specific reference in the *Schools and Libraries Fourth Report and Order* as to the party from whom recovery should be directed. See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808, (2004) (*Schools and Libraries Fifth Report and Order*); *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 97-21, 02-6, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252 (2004) (*Schools and Libraries Fourth Report and Order*).

² See 47 C.F.R. §54.520.

Internet safety policy that addressed measures designed to restrict minors' access to harmful materials. Although Little Rock's Internet safety policy did not address this point, Little Rock did have in place an Internet filter that restricted minors' access to harmful materials. In this case, recovery is not warranted.

Services Delivered to an Entity Not Listed on the FCC Form 471: USAC recommended complete recovery in every instance in which services were delivered to an entity that was not listed in the applicant's FCC Form 471. Pursuant to the Commission's direction in its *Bishop Perry Order*, however, USAC has allowed applicants to modify their FCC Forms 471 for clerical and ministerial errors.³ Accordingly, an applicant first must be given an opportunity to show that the omission of such entity from the FCC Form 471 was a ministerial or clerical error. If such entity would otherwise be eligible, then recovery is not warranted.

No Signed Contract (2004 and Beyond); No Legally Binding Agreement (2003 and Before): Starting in 2004, USAC denied the validity of contracts unless they were signed and dated by both parties. USAC also began to distinguish between contracts and legally binding agreements. USAC based its actions on language in the *Schools and Libraries Fifth Report and Order*, which states that, for recordkeeping purposes, applicants and service providers should keep "executed contracts, signed and dated by both parties."⁴ Consistent with the Commission's direction, contract guidance information posted on USAC's website no longer requires a contract to be signed and dated by both parties.⁵ Thus, USAC should not recover funding if there was a binding agreement that was legal under state law.

Equipment Not Utilized: USAC recommended recovery in every instance in which equipment was not utilized: for example, the equipment was installed but not connected to any computers, or some equipment was still in its original packaging and had not been installed. There could be situations that would justify a decision to not recover funds. For example, in one of the audits, Brownsville Independent School District delayed installation of all equipment due to human resource limitations, but anticipated that very shortly all of the equipment would be installed. In this instance, if the equipment was subsequently installed, recovery would not be warranted.

³ See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316 (2006) (*Bishop Perry Order*).

⁴ *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15824, para. 48.

⁵ See USAC website, Contract Guidance, <http://www.usac.org/sl/applicants/step04/contract-guidance.aspx> (retrieved Jan. 16, 2009); *Requests for Waiver of the Decision of the Universal Service Administrator by Adams County School District 14, et al., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 6019 (2007) (the Commission granted waivers of rule section 54.504(c) where the petitioners had legally binding agreements in place for the relevant funding years, but missed the deadline for providing evidence of a signed contract).

This letter addresses all of the outstanding issues on which USAC has sought formal guidance from the Commission. Please let me know if you have any questions.

Sincerely,

Dana R. Shaffer
Chief
Wireline Competition Bureau

Table C Policy Issues

Issue	Relevant Rule	Guidance
1. Technology Plan Deficiency – applicant’s technology plan did not have all five criteria.	54.508(a), stating the required elements of a technology plan.	Recover.
2. CIPA certification violations – applicant did not comply with all CIPA requirements.	54.520(c)(1), stating the certifications required by 47 CFR § 254(h) and (l).	Recover generally; however, certain situations may not warrant recovery. <i>See</i> letter.
3. Services delivered to an entity that was not approved to receive the service on FCC Form 471 for the Funding Request Number (FRN).	4 th R & O, 19 FCC Rcd 15252, ¶15, stating that the service provider is likely to be the responsible party if it delivers services that were not approved for funding under the Form 471.	USAC should determine if the entity should have been listed on the FCC Form 471 and, if so, allow the applicant to amend the FCC Form 471. <i>See</i> letter. Otherwise recover.
4. Service provided or equipment installed at an ineligible entity or used for an ineligible purpose.	54.501(b), (c), (d), stating the requirements for eligible entities. 54.505, stating how to determine the discount for an entity. 54.507(g) stating the rules of priority. 4 th R & O, 19 FCC Rcd 15252, ¶15, stating that the service provider is likely to be the responsible party if it delivers services that were not approved for funding under the Form 471.	Recover.
5. Equipment transferred prior to 3 years after purchase or prior to closure of entity.	54.513(c), prohibiting the transfer of equipment for 3 years, with certain exceptions.	Recover.
6. No signed contract (2004 and beyond). No legally binding agreement (2003 and before).	5 th R & O, 19 FCC Rcd 15808, ¶ 48, stating that for recordkeeping purposes, applicants and service providers should keep “executed contracts, signed and dated by both parties.”	Do not recover if there was a binding agreement that was legal under state law. <i>See</i> letter.

Issue	Relevant Rule	Guidance
7. Non-telecommunications carrier provided telecommunications services.	54.501(a), stating that only telecom carriers may receive E-rate support for providing telecom services.	Recover.
8. Failure to bill for the non-discounted portion.	54.523, requiring applicants to pay their share.	Recover.
9. Funding disbursed priority two services below the funding threshold. This occurs when USAC funds priority one services that are actually priority two services because the entity has improperly categorized them and the entity's discount level is below the fundable priority two threshold for that funding year.	54.507(g), stating the rules of priority.	Recover.
10. Free services not deducted from the total pre-discounted cost of services and thus used to provide ineligible items or to provide a greater discount rate than that to which the applicant is entitled.	54.523, requiring applicants to pay their share, prohibiting the provision of rebates, defining rebates to include free services or products.	Recover.
11. Equipment not utilized (equipment has been installed but no computers are connected, or that some equipment is still in its original packaging and has not been installed).	54.507(d), setting forth the implementation deadline for non-recurring services. 54.504(b), 54.504(b)(2)(ii), requiring applicants to use services and equipment only for educational purposes.	Recovery depends on the individual situation.

Issue	Relevant Rule	Guidance
12. Could not locate equipment.	<p>54.504(b), 54.504(b)(2)(ii), requiring applicants to use services and equipment only for educational purposes.</p> <p>54.516(a), requiring applicants to maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for 5 years.</p>	Recover.

EXHIBIT 5

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The White House

Office of the Press Secretary

For Immediate Release

March 07, 2011

President Obama Signs Massachusetts Disaster Declaration

The President today declared a major disaster exists in the Commonwealth of Massachusetts and ordered Federal aid to supplement Commonwealth and local recovery efforts in the area struck by a severe winter storm and snowstorm during the period of January 11-12, 2011.

Federal funding is available to Commonwealth and eligible local governments and certain private nonprofit organizations on a cost-sharing basis for emergency work resulting from the severe winter storm and snowstorm in the counties of Berkshire, Essex, Hampshire, Middlesex, Norfolk, and Suffolk.

In addition, assistance is available to the Commonwealth and eligible local governments on a cost-sharing basis for emergency protective measures, including snow assistance, for a continuous 48-hour period during or proximate to the incident period in the counties of Essex, Hampshire, Middlesex, Norfolk, and Suffolk. This assistance will be provided for a period of 72 hours for Berkshire County.

Federal funding is also available on a cost-sharing basis for hazard mitigation measures for all counties in the Commonwealth.

W. Craig Fugate, Administrator, Federal Emergency Management Agency (FEMA), Department of Homeland Security, named James N. Russo as the Federal Coordinating Officer for Federal recovery operations in the affected area.

FEMA said additional designations may be made at a later date if requested by the Commonwealth and warranted by the results of further damage assessments.

FOR FURTHER INFORMATION CONTACT: FEMA (202) 646-3272.

BLOG POSTS ON THIS ISSUE

March 11, 2011 1:03 PM EDT

The Earthquake in Japan and Tsunami Preparedness
The President's statement and an overview of his briefings on the tragedy.

March 04, 2011 8:24 PM EDT

Weekly Wrap Up: Innovation, Education, and Even Some Motown
Your look at the week of March 28, 2010 on WhiteHouse.gov.

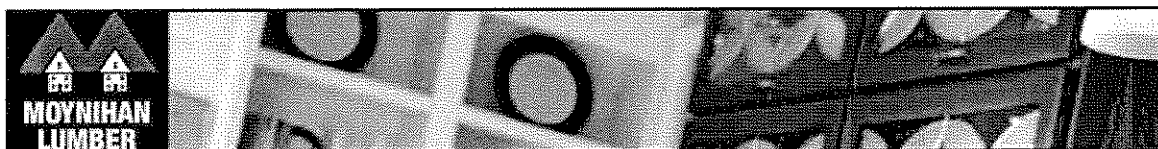
March 01, 2011 8:00 AM EDT

Marking the 8th Anniversary of the Department of Homeland Security
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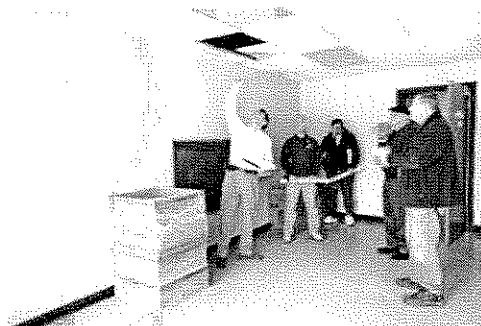
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\$70G in repairs expected on Lynn school portable

By Karen Chretien / The Daily Item

LYNN - Students at Sisson Elementary won't be returning to their portable classrooms any time soon.



Architect Mitchell Lowe, left, performs a walk through with potential contractors, from left, Allen Capone of Pergola Construction, Joe Tibbetts of GVV Inc., Lynn Inspectional Services' Lloyd Barnes and John Bonsaint of Groom Construction at Sisson Elementary School's portable classrooms Thursday. (Item Photo / Reba M. Saldanha)

Students in two kindergarten and two first-grade classrooms were forced to re-locate last week due to the unstable structures and leaking roof brought on by the recent snowstorms. There are four classrooms in the 23-year-old portable.

Inspectional Services Chief and Building Commissioner Mike Donovan says the damage is "significant" and was caused by a poor gutter arrangement.

"There is an internal gutter arrangement as opposed to external arrangements that are on the majority of buildings," said Donovan. "The poor set-up caused water to accumulate inside the building in the internal gutters. The water then froze and caused the leaks."

Teams of contractors were called in to do a "walk through" of the structure to make estimates on how much the repairs will cost.

"The bids on repairs are due next week and then we will decide which contractors to go with," said Donovan. "After we choose a contractor, we're looking at anywhere from three to six weeks for the repairs to get completed." He noted that making the repairs will not be cheap.

"I'm not positive how much it will cost, but I'm expecting to hear from contractors that it will be around \$70,000," he said. "Obviously at some point the city has to look at it and say how long can we continue to use a 23-year-old portable structure?"

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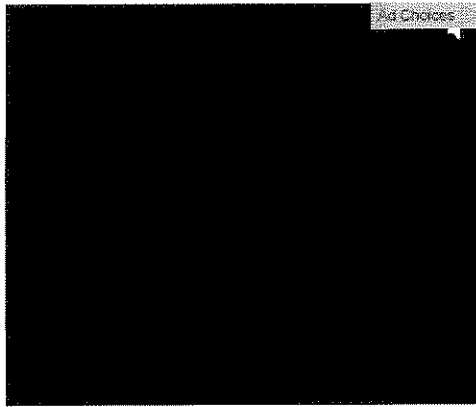
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But Donovan says at this point the city doesn't really have a choice.

"We need the space," he said. "For the immediate term we need to make sure everything is safe and repaired." Donovan is working with an industrial hygienist, who is testing the structure for mold and air quality.



During an initial mold test last week, Donovan said there was a slightly elevated level of mold in the portable classrooms.

"Obviously we will clear this entire area," he said. "The hygienist will be on-scene during all of the repairs to make sure we don't miss any areas that had mold. Clearly the students will not be able to return to the classrooms until the mold is completely eliminated."

Donovan says this isn't the first time this year that the structure has leaked.

"After the first huge snowstorm we were contacted about a notifiable leak," he said. "We brought a dehumidifier in, cleaned out the water, had a contractor in to patch the roof and we took up wet flooring material and put down a carpet."

After the next big snowfall, Inspectional Services spent time shoveling the roof on the portables, along with several other buildings in the city, prior to being notified that there was yet another leak.

"At this point because of the way the water was coming in, it was decided it would not be safe for students to be in there," he said.

Three of the classrooms of students have been re-located to other classrooms at Sisson and one classroom has been re-located to a classroom at Pickering Middle School.

Donovan says the roof on the portables, which were meant to be temporary structures but are now close to 23 years old, have been patched and repaired in the past.

He says now the entire roof will need to be replaced, not just patched.

"There is a suspended ceiling and then a level of hard ceiling above that, and a level of insulation above that," he said. "In order to have access to the leak, we need to remove both ceilings and replace them and change out the insulation."

After the repairs are made, Donovan says the results of the air quality and mold tests will be reported to Latham and Sisson Principal Jane Franklin.

"A report will definitely be provided so that ultimately parents can be notified that the area is mold-free and safe for students to return," he said.

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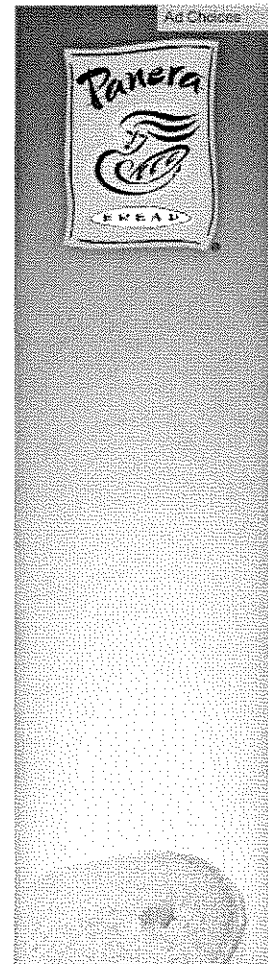
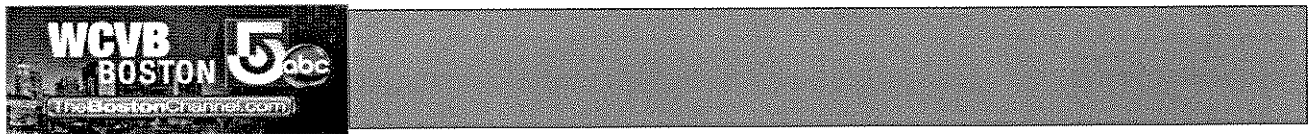


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Massachusetts Schools Affected By Snow Buildup On Buildings

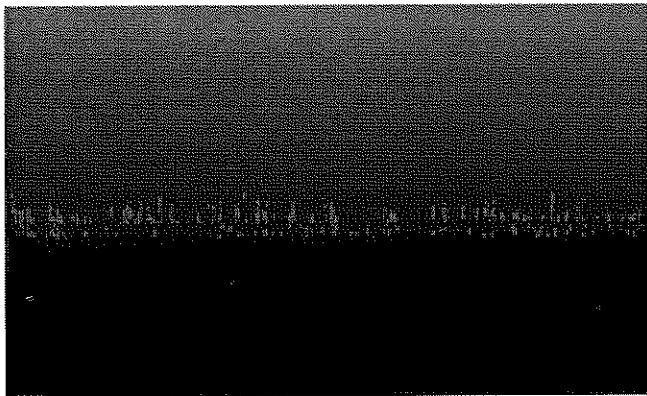
POSTED: 7:50 am EST February 3, 2011
UPDATED: 5:20 pm EST February 3, 2011

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BOSTON -- Students and staff were safely evacuated from an elementary school in Georgetown Thursday, one of several schools across Massachusetts threatened by heavy snow and ice buildup on roofs.

No one was injured in the collapse at the Perley School at 51 North Street in Georgetown, fire officials said.

"We received a phone call actually from one of the neighbors asking if we were aware there was a hole in the roof at the Perly School because we didn't hear anything and we didn't see anything at the time. We had no way of knowing if anything had happened," said Georgetown Superintendent Carol Jacobs.

All Georgetown schools will be closed Friday so inspectors can assess the buildings' safety and so crews can continue to clear snow.

Students in several other Massachusetts communities were also out of the classroom for another day as the safety of many school structures loaded down with heavy snow was addressed.

Students at the South Shore Charter School in Norwell were sent home early on Thursday. A parent at the Longwater Circle school said they were dismissed because of roof concerns.

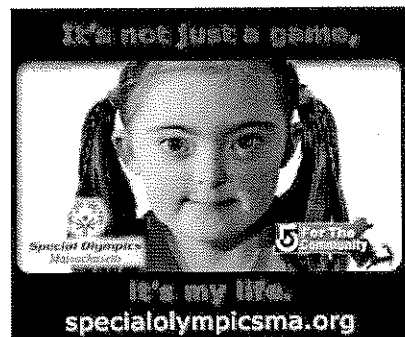
According to the Norwell Public Schools superintendent, the high school and middle school were taking students from the charter school.

Peabody schools remained closed Thursday after two days of snow as administrators, engineers and maintenance crews assessed the danger of

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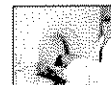
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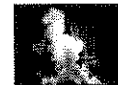
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